

U.S. DISTRICT COURT  
DISTRICT OF NEW HAMPSHIRE

**O R I G I N A L**

MAY 10 2011

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW HAMPSHIRE

**FILED**

Edward Herbst

v.

Civil No. 09-cv-233-JL

L.B.O. Holding, Inc. d/b/a  
Attitash Bear Peak Resort

**VERDICT FORM**

1. **Negligence Claim.** Do you find, by a preponderance of the evidence, that Mr. Herbst has proven his claim against Attitash for negligence?

YES  
(Yes or No)

*(If you answered "yes" to question 1, proceed to questions 2 and 3. If you answered "no" to question 1, conclude your deliberations and sign this form at the end on the line provided.)*

2. **Comparative Negligence Defense.** Do you find, by a preponderance of the evidence, that Attitash has proven its defense that Mr. Herbst was negligent?

YES  
(Yes or No)

3. **Third-Party Fault Defense.** Do you find, by a preponderance of the evidence, that Attitash has proven its defense that Demag AG bears some fault on Mr. Herbst's claim?

NO  
(Yes or No)

*(If you answered "yes" to question 2 and/or question 3, proceed to question 4. If you answered "no" to both questions, proceed to question 5.)*

4. **Allocation of Fault.** Using 100% to represent the total fault, please state the percentage of fault, if any, which you attribute to Attitash, Mr. Herbst, and Demag AG:

A. Attitash	<u>51</u> %
B. Mr. Herbst	<u>49</u> %
C. Demag AG	<u>0</u> %
D. Total	100%

*(If you found that Mr. Herbst was more than 50% at fault, conclude your deliberations and sign this form at the end on the line provided. Otherwise, proceed to question 5.)*

5. Damages. What amount of compensatory damages, if any, do you award to Mr. Herbst on his claim for negligence? Please state the full amount in words, not figures.

Thirty thousand dollars .00

(If damages have been found, the court will be responsible for allocating the damages in accordance with the percentages of fault, if any, that you found in response to question 4. You should state the full amount of damages in response to question 5, without regard to the percentages of fault that you allocated in response to question 4.)

(This concludes your deliberations. Please sign this form at the end on the line provided.)

\_\_\_\_\_  
Foreperson

\_\_\_\_\_  
Date

5/10/2011